



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

MAY 27 2004

REPLY TO THE ATTENTION OF

(AE-17J)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Todd Werstler, Owner
Tower Industries, LLC
2101 S. Ninth Street SW
Massillon, Ohio 44647

Re: Notice of Violation and Finding of Violation
Tower Industries, LLC (2101 S. Ninth Street
SW and 655 Third Street NW facilities)
Massillon, Ohio

Dear Mr. Werstler:

The United States Environmental Protection Agency (U.S. EPA) is issuing the enclosed Notice of Violation (NOV) and Finding of Violation (FOV) to Tower Industries, LLC (Tower or you). We find that you are violating Sections 112, 113(a)(1) and 113(a)(3) of the Clean Air Act, 42 U.S.C. § 7401 et seq., and the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Reinforced Plastic Composites Production at 40 C.F.R. Part 63, Subpart WWWW, at your 2101 S. Ninth Street SW, Massillon, Ohio facility. In addition, we find that you have violated the Ohio State Implementation Plan (SIP) with regard to your new Ninth Street facility described above, and your original facility located at 655 Third Street NW, Massillon, Ohio, 44647.

We have several enforcement options under Sections 113(a)(1) and 113(a)(3) of the Clean Air Act, 42 U.S.C. § 7413(a)(1) and (a)(3). These options include issuing an administrative compliance order, issuing an administrative penalty order, and bringing a judicial civil or criminal action. The options we select may depend on, among other things, the length of time you take to achieve and demonstrate continuous compliance with the rules cited in the attached NOV/FOV.

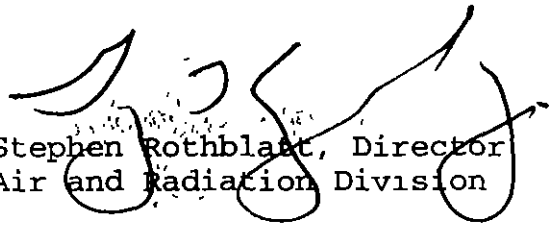
We are offering you an opportunity to confer with us about the violations alleged in the NOV/FOV. The conference will give you the opportunity to present information on the specific findings of violation, the efforts you have taken to comply, and the steps

you will take to prevent future violations.

Please plan for your facility's technical and management personnel to attend the conference to discuss compliance measures and commitments. You may have an attorney represent you at this conference.

The U.S. EPA contacts in this matter are Sheila Desai, Environmental Engineer, and Cynthia Kawakami, Associate Regional Counsel. You may call them at (312) 353-4150 and (312) 886-0564, respectively, to request a conference. You should make the request as soon as possible, but no later than 10 calendar days after you receive this letter. We should hold any conference within 30 calendar days of your receipt of this letter.

Sincerely,


Stephen Rothblatt, Director
Air and Radiation Division

ALTING

Enclosure

cc: Robert Hodanbos1, Chief
Ohio Environmental Protection Agency

Dan Aleman, Administrator
Air Pollution Control Division
Canton City Health Department

United States Environmental Protection Agency
Region 5

IN THE MATTER OF:)
)
Tower Industries, LLC) NOTICE OF VIOLATION AND
Massillon, Ohio) FINDING OF VIOLATION
)
) EPA-5-04-OH-12
Proceedings Pursuant to)
the Clean Air Act,)
42 U S C §§ 7401 et seq)

NOTICE AND FINDING OF VIOLATION

The United States Environmental Protection Agency (U.S. EPA) is issuing this Notice of Violation and Finding of Violation under Section 113(a)(1) and 113(a)(3) of the Clean Air Act, 42 U.S.C. § 7413(a)(1) and (a)(3). U.S. EPA finds that Tower Industries, LLC (Tower) has violated the Ohio State Implementation Plan (SIP) with regard to its new facility located at 2101 S. Ninth Street SW, Massillon, Ohio and its original facility located at 655 Third Street NW, Massillon, Ohio. In addition, the U.S. EPA finds that Tower is violating Section 112 of the Clean Air Act, 42 U.S.C. § 7412, at its Ninth Street facility. Specifically, Tower is violating the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Reinforced Plastic Composites Production at 40 C.F.R. Part 63, Subpart WWWW.

Statutory and Regulatory Background

NESHAP for Reinforced Plastic Composites Production

1. On April 21, 2003, the U.S. EPA promulgated 40 C.F.R. Part 63, Subpart WWWW, the NESHAP for Reinforced Plastic Composites Production. 68 Fed. Reg. 76 ("Subpart WWWW regulations"). The Subpart WWWW regulations are applicable to any person who owns or operates a reinforced plastic composites production facility that is located at, or is part of, a major source of Hazardous Air Pollutants (HAP) emissions. 40 C.F.R. § 63.5785(a).
2. Reinforced plastic composites production is limited to operation in which reinforced and/or nonreinforced plastic composites or plastic molding compounds are manufactured using thermoset resins and /or gel coats that contain

styrene to produce plastic composites. 40 C.F.R. § 63.5785(a).

3. A "major source of HAP" is a plant site that emits or has the potential to emit any single HAP at a rate of 10 tons or more per year or any combination of HAP at a rate of 25 tons or more per year from all emission sources at the plant site.
4. The Subpart WWW regulations apply to each new or existing affected source at reinforced plastic composites production facilities 40 C.F.R. § 63.5790(a)
5. A new affected source is a reinforced plastic composites production facility for which construction commenced after August 2, 2001, and no other reinforced plastic composites production affected source exists at that site. 40 C.F.R. § 63.5795(a).
6. 40 C.F.R. § 63.5800 requires that a new source subject to Subpart WWW regulations which is a major source at startup must demonstrate compliance upon startup or by April 21, 2003, whichever is later.
7. 40 C.F.R. § 63.5805(c) requires that a new source subject to Subpart WWW regulations must meet the organic HAP emissions limits of 33.6% highest organic HAP content for a compliant resin and 44.0% highest organic HAP content for a compliant gel coat.
8. 40 C.F.R. § 63.5905 requires that a new affected source subject to Subpart WWW regulations must submit all applicable notifications in 40 C.F.R. § 63.9(b)(4) and (5). 40 C.F.R. § 63.9(b)(4) requires the owner or operator of a new or reconstructed affected source for which an application for approval of construction is required under 63.5(d) to provide the following information in writing to the Administrator:
 - a. A notification of intention to construct a new major affected source with the application for approval of construction,
 - b. A notification of the date when construction was commenced, delivered or postmarked not later than 30 days after such date, and
 - c. A notification of the actual date of startup of the source, delivered or postmarked within 15 calendar days after that date.

9. 40 C.F.R. § 63.5910 requires that an affected source must submit semiannual compliance reports according to the requirements in 40 C.F.R. § 63.5910(b).

Ohio SIP

10. OAC 3745-15-01 defines "new source" as any source the construction or modification of which is commenced on or after February 15, 1972.
11. U.S. EPA originally approved OAC 3745-31 as part of the federally enforceable Ohio SIP on October 31, 1980 (45 Fed. Reg. 72119).
12. OAC Rule 3745-31-02(A) states that no person shall cause, permit, or allow the installation of a new source of air pollutants, or the modification of an air contaminant source, without first obtaining a Permit to Install (PTI) from the director.
13. OAC 3745-31-05 states that the director may impose such special terms and conditions as are appropriate or necessary to ensure compliance with the applicable laws and designate such terms and conditions in the PTI.

Tower's 2101 S. Ninth Street SW Facility

14. Tower owns and operates a reinforced plastic composites production facility at 2101 S. Ninth Street SW, Massillon, Ohio (the "Ninth Street facility").
15. Tower's Ninth Street facility meets the definition of reinforced plastic composites production in 40 C.F.R. § 63.5785.
16. Tower commenced construction in November 2003, and began operation on December 8, 2003 at the Ninth Street facility
17. Tower commenced construction and operation at the Ninth Street facility without submitting a PTI application and without obtaining a PTI.
18. Tower has the potential to emit at least 40.22 tons per year of HAP of which 36.56 tons per year is for styrene alone. Tower's potential to emit for styrene is greater than the major source requirement for a single HAP of 10 tons per year. Therefore, Tower is a major source of HAP.

19. A reinforced plastic composites production facility is a new affected source if construction of the affected source commences after August 2, 2001 and no other reinforced plastic composites production affected source exists at that site. Since Tower commenced construction at the Ninth Street facility in November 2003, it is considered a new affected source.
20. Tower did not obtain a MACT determination prior to actual construction or reconstruction of any process or production unit that is a major MACT source.
21. Tower's solid surface casting resin has an organic HAP content of 36%. Its marble casting resin has an organic HAP content of 35%, and its clear production gel coat has an organic HAP content of 48.507%.
22. The solid surface casting resin, the marble casting resin, and the clear production gel coat used by Tower exceed the organic HAP emissions limits as prescribed by 40 C.F.R. § 63.5805(c).
23. Tower has not submitted a notification of intention to construct a new major source with an application for approval of construction.
24. Tower has not submitted a notification of the date when construction was commenced, delivered or postmarked not later than 30 days after such date.
25. Tower has not submitted a notification of the actual date of startup of the source, delivered or postmarked within 15 calendar days after that date.
26. Tower has not submitted a compliance report for the period of December 8, 2003 to December 31, 2003, which was required to be postmarked or delivered no later than January 31, 2004.

Tower's 655 Third Street NW Facility

27. Tower owned and operated a facility at 655 Third Street NW, Massillon, Ohio (the "Third Street facility").
28. Tower ceased operations at the Third Street facility prior to December 2003.

29. Tower has not maintained daily records in accordance with part 7 and part 13 requirements of the PTI 15-188, issued 09/13/95 for its Third Street facility.
30. Tower also did not submit any annual reports to the Canton City Health Department, as required by its PTI 15-188 part 8 and part 14.

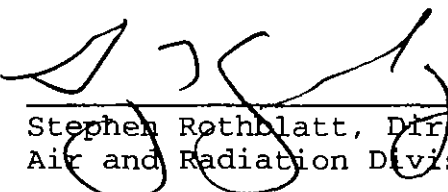
2101 S. Ninth Street SW Facility Violations

31. Tower has failed to submit a PTI application and obtain a PTI prior to commencing construction of an air pollution emission source as required by OAC 3745-31-02 in the Ohio SIP.
32. Tower failed to obtain a MACT determination prior to actual construction or reconstruction of any process or production unit that is a major MACT source as required by OAC 3745-31-28 in the Ohio SIP.
33. Tower exceeded the organic HAP emissions limits as required by 40 C.F.R. § 63.5805(c) for its solid surface casting resin, its marble casting resin, and its clear production gel coat.
34. Tower has failed to submit all applicable notifications as required by 40 C.F.R. § 63.5905(b)(4).
35. Tower has failed to provide the Ohio EPA with its semiannual compliance report by January 31, 2004, as required by 40 C.F.R. § 63.5910.

655 Third Street NW Facility Violations

36. Tower failed to maintain daily records in accordance with part 7 and part 13 requirements of the PTI 15-188 issued 09/13/95 and as required by OAC 3745-31-05 in the Ohio SIP.
37. Tower failed to submit any annual reports to the Canton City Health Department, as required by its PTI 15-188 part 8 and part 14 and as required by OAC 3745-31-05 in the Ohio SIP.

5/27/04
Date


Stephen Rothblatt, Director
Air and Radiation Division

ACTING

CERTIFICATE OF MAILING

I, Loretta Shaffer, certify that I sent a Finding of Violation, No. EPA-5-04-OH-12, by Certified Mail, Return Receipt Requested, to:

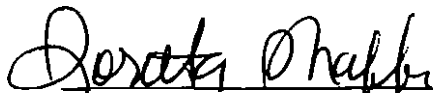
Todd Werstler, Owner
Tower Industries, LLC
2101 S. Ninth Street SW
Massillon, Ohio 44647

I also certify that I sent copies of the Finding of Violation by first class mail to:

Robert Hodanbosi, Chief
Division of Air Pollution Control
Ohio Environmental Protection Agency
Lazarus Government Center
P.O. 1049
Columbus, Ohio 43216-1049

Dan Aleman, Administrator
Air Pollution Control Division
Canton City Health Department
420 Market Avenue North
Canton, Ohio 44702-1544

on the 27th day of May, 2004.


Loretta Shaffer, Secretary
AECAS, (MN/OH)

CERTIFIED MAIL RECEIPT NUMBER: 70010320 0005 8909 8381